

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1069*
PROPOSED COMMITTEE SUBSTITUTE H1069-PCS40225-TMx-56

Short Title: Unemployment Insurance Law Changes.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED
AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS, AS
RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
UNEMPLOYMENT INSURANCE.

The General Assembly of North Carolina enacts:

**PART I: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS;
REQUIRING UI CLAIMANTS TO CONTACT FIVE POTENTIAL EMPLOYERS PER
WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST
RECONSIDERATION OF DECISIONS.**

SECTION 1.1. G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

- (1) For the purpose of administering the drivers license laws.
- (2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.
- (3) To the Department of Revenue for the purpose of verifying taxpayer identity.
- (4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.
- (5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.
- (6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A.
- (7) To the Department of Commerce, Division of Employment Security, for the purpose of verifying employer and claimant identity."

SECTION 1.2.(a) G.S. 96-9.2(c) reads as rewritten:

"(c) Contribution Rate for Experience-Rated Employer. – The contribution rate for an experience-rated employer who does not qualify as a beginning employer under subsection (b) of this section is determined in accordance with the table set out below and then rounded to the



nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by all insured employers for the 12-month period ending on ~~July 31~~ June 30 preceding the computation date. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

...."

SECTION 1.2.(b) This section is effective when it becomes law and applies to contributions payable for calendar quarters beginning on or after January 1, 2014.

SECTION 1.3.(a) G.S. 96-14.9(e) reads as rewritten:

"(e) **Actively Seeking Work.** – The Division's determination of whether an individual is actively seeking work is based upon the following:

- (1) The individual is registered for employment services, as required by the Division.
- (2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.
- (3) The individual has ~~sought work on at least two different days during the week and made at least two~~ five job contacts with potential ~~employers.~~ employers during the week.
- (4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request."

SECTION 1.3.(b) This section becomes effective July 1, 2014, and applies to claims for benefits filed on or after that date.

SECTION 1.4.(a) G.S. 96-15(h) reads as rewritten:

"(h) **Judicial Review.** – ~~Any A~~ decision of the Division, in the absence of judicial review as herein provided, or in the absence of an interested party filing a request for reconsideration, shall become Board of Review becomes final 30 days after the date of ~~notification or mailing thereof, whichever is earlier, unless a party to the decision seeks judicial review as provided in this subsection.~~ Judicial review shall be ~~is~~ permitted only after a party claiming to be aggrieved by the decision has exhausted ~~his remedies before the Division as provided in this Chapter the remedies provided in this Chapter~~ and has filed a petition for review in the superior court of the county in which ~~he the petitioner~~ resides or has his ~~the county in which the petitioner's principal place of business.~~ business is located. The petition for review ~~shall must~~ explicitly state what exceptions are taken to the decision or procedure ~~of the Division~~ and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the petitioner ~~shall must~~ serve copies of the petition by personal service or by certified mail, return receipt requested, upon the Division and upon all parties of record to the Division proceedings. The Division must furnish the petitioner the names ~~Names~~ and addresses of the parties ~~shall be furnished to the petitioner by the Division~~ upon request. The Division ~~shall be deemed to be~~ is a party to any judicial action involving any of its decisions and may be represented in the judicial action by any qualified attorney who has been designated by it for that purpose. Any questions regarding the requirements of this subsection concerning the service or filing of a petition ~~shall must~~ be determined by the superior court. Any party to the Division proceeding may become a party to the review proceeding by notifying the court within 10 days after receipt of the copy of the petition. Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

1 Within 45 days after receipt of the copy of the petition for review or within such additional
2 time as the court may allow, the Division ~~shall~~must transmit to the reviewing court the original
3 or a certified copy of the entire record of the proceedings under review. With the permission of
4 the court the record may be shortened by stipulation of all parties to the review proceedings.
5 Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for
6 ~~such the~~ additional cost ~~as is occasioned~~incurred by the refusal. The court may require or
7 permit subsequent corrections or additions to the record when ~~deemed~~the court considers the
8 changes desirable."

9 **SECTION 1.4.(b)** This section becomes effective July 1, 2014, and applies to
10 decisions made on or after that date.

11 **SECTION 1.5.(a)** G.S. 96-3 reads as rewritten:

12 **"§ 96-3. Division of Employment Security.**

13 The Division of Employment Security (DES) is created within the Department of
14 Commerce and shall administer the provisions of this Chapter under the supervision of the
15 Assistant Secretary of ~~Commerce~~Commerce~~through two coordinate sections: the Employment~~
16 ~~Security Section and the Employment Insurance Section. The Employment Security Section~~
17 ~~shall administer the employment services functions of the Division. The Employment Insurance~~
18 ~~Section shall administer the unemployment taxation and assessment functions of the Division."~~

19 **SECTION 1.5.(b)** G.S. 96-4(j) reads as rewritten:

20 "(j) Hearings. – The Assistant Secretary shall appoint hearing officers or appeals
21 referees to hear contested matters arising from the ~~Employment Security Section and the~~
22 ~~Employment Insurance Section.~~Division of Employment Security. Appeals from the decisions
23 of the hearing officers or appeals referees shall be heard by the Board of Review."

24 **SECTION 1.5.(c)** G.S. 96-9.15(f) reads as rewritten:

25 "(f) Domestic Employer Exception. – The Division may authorize an employer of
26 domestic service employees to file an annual report and to file that report by telephone. An
27 annual report allowed under this subsection is due on or before the last day of the month
28 following the close of the calendar year in which the wages are paid. A domestic service
29 employer that files a report by telephone must contact either the tax auditor assigned to the
30 employer's account or the ~~Employment Insurance Section~~Division of Employment Security in
31 Raleigh and report the required information to that auditor or to that section by the date the
32 report is due."

33
34 **PART II: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF**
35 **UNPAID UI TAXES**

36 **SECTION 2.1.(a)** G.S. 1-359 reads as rewritten:

37 **"§ 1-359. Debtors of judgment debtor may satisfy execution.**

38 (a) After the issuing of an execution against property, all persons indebted to the
39 judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff
40 the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the
41 sheriff's receipt is a sufficient discharge for the amount paid.

42 (b) When the Division of Employment Security of the Department of Commerce
43 (Division) prevails in a civil action against an employer to collect unpaid employment taxes
44 under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts in
45 payment of the unpaid taxes in the manner provided by subsection (a) of this section. Direct
46 receipt by the Division is a sufficient discharge for the amount paid by a credit card company
47 or clearinghouse."

48 **SECTION 2.1.(b)** G.S. 96-10(b)(1) reads as rewritten:

49 "(b) Collection. –

50 (1) If, after due notice, any employer defaults in any payment of contributions or
51 interest thereon, the amount due shall be collected by civil action in the

1 name of the Division, and the employer adjudged in default shall pay the
2 costs of such action. Civil actions brought under this section to collect
3 contributions or interest thereon from an employer shall be heard by the
4 court at the earliest possible date, and shall be entitled to preference upon the
5 calendar of the court over all other civil actions, except petitions for judicial
6 review under this Chapter and cases arising under the Workers'
7 Compensation Law of this State; or, if any contribution imposed by this
8 Chapter, or any portion thereof, and/or penalties duly provided for the
9 nonpayment thereof shall not be paid within 30 days after the same become
10 due and payable, and after due notice and reasonable opportunity for
11 hearing, the Division, under the hand of the Assistant Secretary, may certify
12 the same to the clerk of the superior court of the county in which the
13 delinquent resides or has property, and additional copies of said certificate
14 for each county in which the Division has reason to believe the delinquent
15 has property located. If the amount of a delinquency is less than fifty dollars
16 (\$50.00), the Division may not certify the amount to the clerk of court until a
17 field tax auditor or another representative of the Division personally
18 contacts, or unsuccessfully attempts to personally contact, the delinquent and
19 collect the amount due. A certificate or a copy of a certificate forwarded to
20 the clerk of the superior court shall immediately be docketed and indexed on
21 the cross index of judgments, and from the date of such docketing shall
22 constitute a preferred lien upon any property which said delinquent may own
23 in said county, with the same force and effect as a judgment rendered by the
24 superior court. The Division shall forward a copy of said certificate to the
25 sheriff or sheriffs of such county or counties, or to a duly authorized agent of
26 the Division, and when so forwarded and in the hands of such sheriff or
27 agent of the Division, shall have all the force and effect of an execution
28 issued to such sheriff or agent of the Division by the clerk of the superior
29 court upon a judgment of the superior court duly docketed in said county.
30 Provided, however, the Division may in its discretion withhold the issuance
31 of said certificate or execution to the sheriff or agent of the Division for a
32 period not exceeding 180 days from the date upon which the original
33 certificate is certified to the clerk of superior court. The Division is further
34 authorized and empowered to issue alias copies of said certificate or
35 execution to the sheriff or sheriffs of such county or counties, or to a duly
36 authorized agent of the Division in all cases in which the sheriff or duly
37 authorized agent has returned an execution or certificate unsatisfied; when so
38 issued and in the hands of the sheriff or duly authorized agent of the
39 Division, such alias shall have all the force and effect of an alias execution
40 issued to such sheriff or duly authorized agent of the Division by the clerk of
41 the superior court upon a judgment of the superior court duly docketed in
42 said county. Provided, however, that notwithstanding any provision of this
43 subsection, upon filing one written notice with the Division, the sheriff of
44 any county shall have the sole and exclusive right to serve all executions and
45 make all collections mentioned in this subsection and in such case no agent
46 of the Division shall have the authority to serve any executions or make any
47 collections therein in such county. A return of such execution, or alias
48 execution, shall be made to the Division, together with all moneys collected
49 thereunder, and when such order, execution, or alias is referred to the agent
50 of the Division for service the said agent of the Division shall be vested with
51 all the powers of the sheriff to the extent of serving such order, execution or

alias and levying or collecting thereunder. The agent of the Division to whom such order or execution is referred shall give a bond not to exceed three thousand dollars (\$3,000) approved by the Division for the faithful performance of such duties. The liability of said agent shall be in the same manner and to the same extent as is now imposed on sheriffs in the service of executions. If any sheriff of this State or any agent of the Division who is charged with the duty of serving executions shall willfully fail, refuse, or neglect to execute any order directed to him by the said Division and within the time provided by law, the official bond of such sheriff or of such agent of the Division shall be liable for the contributions, penalty, interest, and costs due by the employer. Any judgment that is executable and allowed under this section shall be subject to attachment and garnishment under G.S. 1-359(b) in payment of unpaid taxes that are due from the employer and collectable under this Article."

PART III: SET THE DURATION OF UNEMPLOYMENT BENEFITS BASED ONLY ON UNEMPLOYMENT RATES

SECTION 3.1.(a) G.S. 96-14.4 is repealed.

SECTION 3.1.(b) G.S. 96-14.3 reads as rewritten:

"§ 96-14.3. ~~Minimum and maximum duration~~ Duration of benefits.

(a) Duration. – The ~~minimum and maximum~~ number of weeks an individual is allowed to receive unemployment benefits depends on the seasonal adjusted statewide unemployment rate that applies to the six-month base period in which the claim is filed. One six-month base period begins on January 1 and one six-month base period begins on July 1. For the base period that begins January 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of July, August, and September applies. For the base period that begins July 1, the average of the seasonal adjusted unemployment rates for the State for the preceding months of January, February, and March applies. The Division must use the most recent seasonal adjusted unemployment rate determined by the U.S. Department of Labor, Bureau of Labor Statistics, and not the rate as revised in the annual benchmark. ~~The number of weeks allowed for an individual is determined in accordance with G.S. 96-14.4.~~

Seasonal Adjusted Unemployment Rate	Minimum Number of Weeks	Maximum Number of Weeks
Less than or equal to 5.5%	5	12
Greater than 5.5% up to 6%	6	13
Greater than 6% up to 6.5%	7	14
Greater than 6.5% up to 7%	8	15
Greater than 7% up to 7.5%	9	16
Greater than 7.5% up to 8%	10	17
Greater than 8% up to 8.5%	11	18
Greater than 8.5% up to 9%	12	19
Greater than 9%	13	20

(b) Total Benefits. – The total benefits paid to an individual equals the individual's weekly benefit amount allowed under G.S. 96-14.2 multiplied by the number of weeks allowed under subsection (a) of this section."

SECTION 3.1.(c) G.S. 96-14.12(b) reads as rewritten:

"(b) Duration of Benefits. – This subsection applies to an individual and the spouse of an individual who is unemployed based on services performed for a corporation in which the individual held five percent (5%) or more of the outstanding shares of the voting stock of the corporation. The maximum number of weeks an individual or an individual's spouse may

1 receive benefits is ~~limited to the lesser of six weeks or the applicable weeks determined under~~
2 ~~G.S. 96-14.4 weeks.~~"

3 **SECTION 3.1.(d)** G.S. 96-16(f) reads as rewritten:

- 4 "(f) (1) A seasonal worker shall be eligible to receive benefits based on seasonal
5 wages only for a week of unemployment which occurs, or the greater part of
6 which occurs within the active period or periods of the seasonal pursuit or
7 pursuits in which he earned base period wages.
8 (2) A seasonal worker shall be eligible to receive benefits based on nonseasonal
9 wages for any week of unemployment which occurs during any active period
10 or periods of the seasonal pursuit in which he has earned base period wages
11 provided he has exhausted benefits based on seasonal wages. Such worker
12 shall also be eligible to receive benefits based on nonseasonal wages for any
13 week of unemployment which occurs during the inactive period or periods
14 of the seasonal pursuit in which he earned base period wages irrespective as
15 to whether he has exhausted benefits based on seasonal wages.
16 (3) The maximum amount of benefits which a seasonal worker shall be eligible
17 to receive based on seasonal wages shall be an amount, adjusted to the
18 nearest multiple of one dollar (\$1.00), determined by multiplying the
19 maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~
20 G.S. 96-14.3, by the percentage obtained by dividing the seasonal wages in
21 his base period by all of his base period wages.
22 (4) The maximum amount of benefits which a seasonal worker shall be eligible
23 to receive based on nonseasonal wages shall be an amount, adjusted to the
24 nearest multiple of one dollar (\$1.00), determined by multiplying the
25 maximum benefits payable in his benefit year, as provided in ~~G.S. 96-14.4,~~
26 G.S. 96-14.3, by the percentage obtained by dividing the nonseasonal wages
27 in his base period by all of his base period wages.
28 (5) In no case shall a seasonal worker be eligible to receive a total amount of
29 benefits in a benefit year in excess of the maximum benefits payable for
30 such benefit year, as provided in ~~G.S. 96-14.4.~~G.S. 96-14.3."

31 **SECTION 3.1.(e)** This section becomes effective July 1, 2014. Changes made by
32 this section to unemployment benefits apply to claims for benefits filed on or after July 1, 2014.
33

34 **PART IV: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS**

35 **SECTION 4.1.** G.S. 96-14.9 reads as rewritten:

36 **"§ 96-14.9. Weekly certification.**

37 (a) Requirements. – An individual's eligibility for a weekly benefit amount is
38 determined on a week-to-week basis. An individual must meet all of the requirements of this
39 section for each weekly benefit period. An individual who fails to meet one or more of the
40 requirements is ineligible to receive benefits until the condition causing the ineligibility ceases
41 to exist:

- 42 (1) File a claim for benefits.
43 (2) Report ~~at an employment office~~ as requested by the ~~Division.~~Division and
44 present valid photo identification meeting the requirements of subsection (k)
45 of this section.
46 (3) Meet the work search requirements of subsection (b) of this section.
47 ...

48 (k) Photo Identification. – The individual must present the Division one of the
49 following documents bearing the individual's photograph:

- (1) A drivers license, learner's permit, provisional license, or nonoperators identification card issued by North Carolina, another state, the District of Columbia, United States territory, or United States commonwealth.
- (2) A United States passport.
- (3) A United States military identification card.
- (4) A Veterans Identification Card issued by the United States Department of Veterans Affairs.
- (5) A tribal enrollment card issued by a federally recognized tribe.
- (6) Any other document issued by the United States or any state that the Division determines adequately identifies the individual."

PART V: EFFECTIVE DATE

SECTION 5.1. Except as otherwise provided, this act is effective when it becomes law.